

FREQUENTLY ASKED QUESTIONS

on FY 2000 Section 8 Renewal Policy

FAQs

General Questions

Q. I am interested in obtaining the most recent HUD notices concerning HAP Contracts that expire in the Fiscal Year 2000. More specifically, I need information regarding the procedures for submitting a budget-based rent increase for these contracts.

A. The Notice governing FY2000 Section 8 contract renewals is H99-36, issued December 29,1999. You can access this Notice on HUDCLIPS (www.hudclips.org). For a budget-based rent adjustment, refer to HUD Handbook 4350.1, chapter 7. HUD Handbooks are also available on HUDCLIPS.

Q. Is Notice H 99-36 official and in force? Will Headquarters notify project Owners? If the field is to do so, when can we expect sufficient supplies of the Notice that we can send on to projects?

A. Yes, Housing Notice 99-36 was signed, and became effective on December 29,1999, retroactive to October 20, 1999. Headquarters will not notify individual projects Owners, however, Headquarters did notify national representatives from industry groups and invited them to the Informational Broadcast held on January 6, 2000. The Notice will be bulk mailed to all Field Offices as soon as they are printed. Hub and Program Center Directors received an electronic version that you may use for distribution. In addition, realizing that the printing process takes time, Project Managers can refer Owners to www.hudclips.org where they can download copies of the Notice and its Attachments.

Q. Do we go back and change those contracts renewed since October 1, 1999?

A. The provisions of Notice 99-36 are retroactive to the date that the “Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, Titles II and V of the HUD FY2000 Appropriations Act was enacted, October 20, 1999. If a contract was executed in the period between October 20 and December 29, 1999, the Owner and HUD may agree to terminate the contract early and renew under the 99-36 provisions. Owners who had below market initial renewals during this time with and renewed at current rents without an OCAF adjustment were under the FY 2000 policy, these Owners would receive an OCAF adjustment and may want to exercise this option. Preservation projects that renewed during this period under FY99 guidance may renew under 99-36 procedures. Again, they may request early termination of the FY99 contract and renew under the provisions set forth in their POA.

Q. What do Owners do if their FY2000 contract expire before the 120-day requirement in 99-36 and /or have the renewal ready to submit for the 90-day requirement or it has just been submitted to HUD? Do they have to follow the new policy without meeting the 120-day submission requirement?

A. The Owner should make every effort to meet the timelines set forth in 99-36. If the Owner is renewing, there should not be a problem. If they wish to opt-out, however, proper tenant notification must have been provided.

Q. We have several FY99 contracts which have not been renewed because the Owner has not yet submitted a request or the request is not complete. When those renewal requests are finally received in an acceptable condition under the provisions of what Notice should they be processed? How are the "leftover" projects handled? If we use the FY2000 guidance (99-36), do we notify the projects that submissions must be in accord with that Notice even though they are actually FY99 renewals? We have several FY00 contracts which are in the middle of processing using the old guidance. Do we need to notify the Owners that we will be processing under Notice 99-36 and get from them any additional information required?

A. Any contract that has yet to be renewed must be processed under the 99-36 provisions. The guidance provided in previous Notices is no longer in effect. If an Owner submitted information according to previous guidance, the Project Manager must contact the Owner and advise them of the change and of what information is required under the 99-36 provisions.

Q. Is it possible to expand the details of various HUD documents online, so that one may read and/or print specific pages, rather than downloading the whole file?

A. Those documents on HUDCLIPS are typically in Microsoft Word format or the universal "Portable Document Format (PDF)." To open them on line, you would have to have the Adobe Acrobat Reader for the PDF files, and a utility capable of reading or importing MS Word files for the MS Word documents. You would also have to have your browser configured to recognize the document extension, i.e. ".PDF" or ".DOC/.DOT" so that it can launch the appropriate software when you click on the document. This should have gotten set-up automatically when your software was installed. However, if it is not working you will have to edit the configuration in your browser. For example, for "Netscape Communicator" (the HUD standard) you do this by clicking on "Edit-Preference-Applications" then scroll down to find Microsoft Word and select "Edit" and make sure that the path to the application correctly goes to the executable file which launches Microsoft Word, which is typically "WINWORD.EXE." For more information consult the Help file in your internet browser.

Tenant Protections

Q. Notice 99-36 contains Attachment 3D which is a tenant notification letter in the case of intent to renew on the part of the Owner. While I understand that 99-36

supersedes 99-32, is this notification letter a requirement of law or of policy? If a notification letter is required when the Owner intends to renew (as stated in 99-36), when must that be sent in terms of multi-year renewals?

A. Notice 99-36 not only supersedes Notice 99-32, but Notices 98-34, 99-08, 99-15, and 99-25. Statute requires Owners to notify HUD and the tenants of the termination or expiration of the Section 8 contract expiration. HUD supplies sample letters that we encourage Owners to use as a guide however, they are samples and we cannot require Owners to use them. There are certain minimum requirements that the statute lays out and the Department encourages Owners to give tenants as much information as possible. In the case of a multi-year contract, the Owner must simply send out notification one-year prior to the contract's expiration or termination.

Q. If the Owner submitted the one-year tenant notification before H99-36 was signed or before the new FY2000 laws were enacted, would the Owner be required to go back and make correction to conform with the FY 2000 guidance? Would the Project Manager be required to go back and look at each notification that was submitted prior to new laws and ask Owners to do a correction to conform to FY2000 laws?

A. As long as the Owner provided a one-year notification that was in line with the guidelines at the time, the requirements are met. Project Managers should be reviewing every notification letter to ensure that they meet statutory requirements.

Q. Notice 99-36 does not clarify who is eligible for opt-out vouchers - the statute says low income families currently being assisted. Who will receive enhanced vouchers at the time of an opt-out?

A. The conversion process and eligibility requirements for enhanced vouchers will be discussed in an upcoming Notice from PIH and Housing.

FMRs, OCAFs

Q. Where can I find information relating to the current FMR for my area?

A. You can contact your local HUD office. In addition, you can access the PD&R homepage at www.hud.gov/pdr.html and click on "huduser" then on "data sets."

Q. Where may we find the newest OCAF figures?

A. The FY2000 OCAF figures are in Attachment 9 of HUD Notice H99-36. They will also be published in the Federal Register in the near future.

Q. I have contracts that are subsequent renewals (Oct., Nov., Dec.) that we have had requested renewal with the OCAF that was in effect at the time of their expiration. I did not get the funding request in before the end of the fiscal year and we have not

been able to fund so far. Since the new OCAF figures are out, do these Owners who requested the FY99 OCAF have to accept the FY2000 OCAF?

A. The FY 2000 OCAF's are currently in effect. If the contract was not executed by the Owner, the FY2000 OCAFs must be used in rent calculations.

Rent comparability studies

Q. When you are comparing the present contract rents to comparable market rents from the RCS, do you take into consideration certain costs specific to HUD insured properties that free market properties do not have? Namely - Cost of a certified audit; HUD mortgage insurance; and costs to satisfy HUD administrative requirements. On the project I manage, the cost of the certified audit and HUD mortgage insurance equals 2.33% of annual contract rents. Will that difference be considered when establishing our new rent structure?

A1. HUD Form 92273 is where the comparable rents are determined and where any adjustments are made. The contract rents do not include these costs and subsequently, the market rents should not include them either.

Owner Options

Q. We have a property that is currently in OHMAR going through an OMHAR-LITE. We did a short-term renewal for six months, expiring 12/31/99. Can we offer another short-term renewal for six more months? Under new guidelines, there were three criteria for short-term renewals and this was not listed for OHMAR-Lites.

A. You may issue another short-term renewal. You should contact the OMHAR office to ascertain how to process extensions/renewals of the 514(c) contracts where OMHAR has not completed processing.

Q. We have a contract that expires 2/27/2000 the Owner has elected to renew under Option 4, however, the Owner is requesting a short-term renewal to align the renewal process. The short term renewal would be 3/1/2000 - 12/31/2000. What documentation would the Owner be required to submit at the end of the short-term renewal? Would they submit another Attachment 4 and required attachments?

A1. The short-term renewal must follow all of the 524 requirements that it would follow under a standard one-year renewal. All documentation required in Attachment 4 of the Notice is required for a short-term renewal. Keep in mind, you are talking about a FY2000 renewal going over to FY2001, current guidance could change as a result of next year's appropriations bill.

Q. If an Owner requests a subsequent renewal under Option 4 but also requests a short-term renewal to align the Section 8 renewal process with submission of the

annual budget-based rent increase process, can the Owner request the short-term renewal rents be set a current versus the prorated OCAF adjustment? Or are the Owners forced to take the OCAF adjustment?

A. If this is the first renewal under MAHRA, the short-term renewal is considered to be the initial renewal and therefore, must receive a rent adjustment. While we do not understand why an Owner would wish to forego a rent increase, it is, ultimately, his/her decision.

Q. For a subsequent renewal under Option 4, are the renewal rents set at the lesser of OCAF and budget-based?

A. An Owner who is eligible and who renews under Option 4 is subject to the “lesser of” test at INITIAL renewals only. At subsequent renewals, the contract will receive an OCAF adjustment unless the Owner requests a budget-based adjustment.

Q. Is it true that subsequent renewals under Option 4 are exempt from the comparable market caps (as no RCS is required) AND the 150% of FMR rent caps, unless requesting a rent increase for an “unusual circumstance” for capital repairs?

A. You are correct. Renewals under Option 4 are separate from the Mark-Up-To-Market restrictions under Option 1, the 150% cap does not apply.

Q. When processing Preservation renewal, do we still use the worksheet HUD Form 90011 to process the rental increase?

A. When you are processing a Preservation renewal, you should do so in accordance with the approved Plan of Action. If the POA calls for the HUD-form 90011 for rent increases, then it should be used.

Q. For Preservation renewals, do we use the Preservation method of calculating OCAFS, (subtract more than just the debt service, use different figures for non-subsidized units, etc.) or the easier (just subtract debt service) method of calculating the OCAFS?

A. For the Preservation renewals calculate the rents according to the method set out in the POA and the Use Agreement.

Q. Are the Section 8 renewal and Preservation OCAF figures the same now?

A. Yes, they are the same. Refer to Attachment 9 of Notice 99-36 for the FY2000 OCAF figures.

Q. Is it the PM's job to prepare both the HAP and the ACC?

A. The ACC is attached to Notice 99-36 and should be used for all contracts.

Combining Contracts

Q. Where can we refer Owners to in writing that you cannot combine pre- and post-1981 contracts?

A. This information is provided in Notice 99-36, Section VI. Additional guidance will be provided in the near future.

Q. We have already combined some pre- and post-1981 contracts and have had no problems. We used the restrictions of the contract that was not terminated. What is the issue? Or, what should we do now?

A. We are not permitting this combination due to the different income limits association with the contracts. Obviously, you cannot undo the contracts that you have already combined. You are advised to continue with the process you have set-up in which you are able to monitor the project to ensure that the income limits for both contracts are satisfied. Additional guidance will be out shortly.

Q. The new notice mentioned that we would not fund new debt service over the comparable market rate. However, for a 524b, we wouldn't know what the market rate was, except for the (e) category. How do we then compare the budget with the OCAF percentage if the property is no longer eligible for MU2M, due to repayment, and the debt service is now higher?

A. For an Owner to request additional debt service, s/he would have to demonstrate that project rents do not/will not exceed comparable market rents. This would require the Owner to submit an RCS.

Q. During FY99, several properties chose to combine one or more of their contracts. In doing so, guidance suggested that the first contract to expire was to remain the active contract. In doing so, we have discovered that in a few cases, the remaining active contract has an income limit universe that allows only for VERY LOW income residents. When submitting 50059s for TRACS, it has rejected those or gave an error for those units that have come over from the terminated contract under the LOWER income limit. Those units are now, according to the system, not eligible to be paid.

A. Headquarters staff is currently evaluating which contract should survive when combining contracts. This information will be posted on this site as soon as a determination has been reached.

Appendix 9

Q. Appendix 9 discusses how to calculate an Owner's initial distribution for non-insured properties. In a number of cases, we are several times removed from the

original Owner and many of the Owners do not know what the original Owner's debt service and/or equity return was. For formerly insured properties under LD properties, we can usually look this up, but how do we figure this out for never insured or other properties?

A. It is the Owner's responsibility to submit this information. For post-1979 New Construction and Substantial Rehabilitation contracts, check the cost certification that the Owner submitted.

Q. A number of non-profits and Housing authorities in our area have been purchasing properties one to several years prior to the expiration date. Will they qualify for the MU2M exception, too?

A. They are not eligible but they could request a waiver. Submit any waiver requests to the Office of Portfolio Management, HQ, Attn: Frank Malone.

Mod. rehab. section 8 contracts

Q. In the case of expiring Section 8 Mod Rehab contracts where there is an insured mortgage, it appears that per Public Housing Notice 99-39, Multifamily has a role to play since these Owners will be eligible for the restructuring program. Yet these Section 8 Mod Rehab contracts are not in TRACS, REMS, or ARAMS. Is there a system within HUD that tells us what insured mortgages have Mod-Rehab contracts and their expiration dates, so that Housing is able to plan our workload accordingly?

A. You should consult with the Office of Public and Indian Housing.

LENGTH OF SECTION 8 CONTRACT

Q. For Owners eligible and who choose Option #2, i.e., simply renewing at current rent levels adjusted by the OCAF, no request to go budget-based up to market: could an Owner choose to request renewal for, say, a 3 year period? In other words, can the term be anything between one and five years? And if so, is that choice made unilaterally (it's the Owner's call completely)?

A. The contract term can be whatever period of time that the Owner requests and the local HUD office approves.

Q. The law has given HUD the authority for contracts of any length. Paragraph VI, A of the Notice indicates that "HUD will consider terms longer than five years on a case-

by-case basis." Does that mean, for example, if we had an Owner committed to long-term affordability (whether non-profit or not) and they wanted, say, a ten-year contract, is that do-able? Or are we taking the position that the "shelf-life" of the Rent Comparability Study pretty much dictates how long a term these contracts can be and right now the thinking is they're only good for up to five years? Also, is the "HUD" referred to in VI. A Headquarters or the Field Office?

A. In theory, a 10-year contract is available, however, HUD must work out the details. The five-year life of the RCS will certainly impact how the contract will be written. In the meantime, if an office receives a request for a term longer than five years, alert headquarters staff and we will provide instruction. For requests up to five years, the Field Office determines whether or not to approve.

SECTION 8 RENEWAL HELP DESK CONTACTS

Albuquerque	Kathryn Ryan	(505) 346-7384
Atlanta Hub	Jeff Fleming Roberta Barnes	(404) 331-5001 ext. 2316 (404) 331-4001 ext. 2328
Baltimore Hub	Kyle Anderson	(410) 962-2520 ext. 3004
Birmingham	Donna Crane Liz Perryman	(205) 290-7630 ext. 1083 (205) 290-7630 ext. 1069
Boston Hub	Elaine Ormond Maurice Barry Jerry Melillo	(617) 565-6617 (617) 565-5138 (617) 565-5223
Buffalo Hub	Andy Pyshlak	(716) 551-5755 ext. 5520
Caribbean	Joe L. Castrillo Magaly Mendez	(787) 766-5400 ext. 2062 (787) 766-5400 ext. 2056
Charleston	Gary Fletcher	(304) 347-7000 ext. 118
Chicago Hub	Denise Johnson	(312) 353-6236 ext. 2159
Cincinnati	Alan Coupland	(614) 469-5737 ext. 8204
Cleveland	Dennis Morton	(216) 522-4058 ext. 7169
Columbia	Robert A. Rifenberick Elizabeth W. Hiller	(803) 253-3240 (803) 765-5880
Columbus Hub	Alan Coupland	(614) 469-5737 ext. 8204
Coral Gables	Patricia Hills Eleanor Hammonds Paul Grafton	(904) 232-1777 ext. 2068 (904) 232-1777 ext. 2064 (904) 232-1777 ext. 2003
Denver Hub	Richard D. Fox	(303) 672-5369 ext. 1135
Des Moines	Nicky Salazar	(515) 284-4627
Detroit Hub	Silas L. Polk	(313) 226-4900 ext. 8160

Eastern Team	Elizabeth Taylor Anne Scott	(202) 708-1870 ext. 2616 (202) 708-1220 ext. 2907
Fort Worth Hub	Delores Timsah Trini Rodriguez Barbara Herriage	(817) 978-9131 ext. 3077 (817) 978-9131 ext. 3008 (817) 978-9295 ext. 3203
Grand Rapids	Mary P. Weston	(616) 456-2133
Greensboro Hub	Linda F. Robertson Sue Hazelwood Barbara Nichols	(336) 547-4027 ext. 518 (336) 547-4027 ext. 531 (336) 547-4027 ext. 513
Hartford	Robert Young Roland Hutter	(860) 240-4800 ext. 3135 (860) 240-4800 ext. 3135
Honolulu	Raymond Gota	(808) 522-8185 ext. 248
Houston	Debra Thompson	(713) 313-2274 ext. 7092
Indianapolis	Eileen Mitcheltree	(317) 226-6085
Jackson	Nita Tackett Craig Wood	(601) 965-4700 ext. 3035 (601) 965-4700 ext. 2915
Jacksonville Hub	Patricia Hills Eleanor Hammonds Paul Grafton	(904) 232-1777 ext. 2068 (904) 232-1777 ext. 2064 (904) 232-1777 ext. 2003
Kansas City Hub	Jane Phillips	(913) 551-6812 or (913) 551-5874
Knoxville	Shawna Kitts	(423) 545-4411 ext.165
Las Vegas	Robert Skinner David F. Ewing	(415) 436-6493 (702) 388-6500 ext.1820
Little Rock	Belinda Koros Olga Harper Suzette J. Keyser	(501) 324-6148 ext. 3437 (501) 324-6148 ext. 3435 (501) 324-6148 ext. 3431

Los Angeles Hub	Cameron Eldredge	(213) 894-8000 ext. 3600
	Donald Freeman	(213) 894-8000 ext. 3634
	Helen Haynes	(213) 894-8000 ext. 3639
	Mary Ann Carrasco	(213) 894-8000 ext. 3640
	Linda Paugh	(213) 894-8000 ext. 3641
Louisville Manchester	John Hamilton	(502) 582-6163 ext. 275
	Cecile Chabot	(603) 666-7686
Milwaukee	Robert Moser	(414) 297-3214 ext. 8691
Minneapolis Hub	Mark Campbell	(612) 370-3051 ext. 2263
	Karin Anderson	(612) 370-3051 ext. 2253
Nashville	Claudia Autry	(615) 736-5069 ext. 3822
	Mary Day	(615) 736-5748 ext. 3742
	Petis Powell	(615) 736-5748 ext. 3724
Newark	Pam Dreher	(973) 622-7900 ext. 3410
New Orleans	Virginia Cockerham	(504) 589-7236 ext. 3115
New York Hub	Doris Goodman	(212) 264-0777 ext. 3807
	Leonora McJolly	(212) 264-0777 ext. 3810
Northwest/Alaska	Gloria Garcia	(206) 220-5228 ext. 3174
Oklahoma City	Jennifer J. Takagi	(405) 553-7411
Omaha	Donna L. Lammert	(402) 492-3116
Philadelphia Hub	Theresa Triolo	(215) 656-0609 ext. 3541
Phoenix	Sandra Trepper	(602) 379-4456 ext. 6252
	Marjorie Carpenter	(602) 379-3146 ext. 6248
Pittsburgh	Jane Miller	(412) 644-6884
Portland	Gloria Garcia	(206) 220-5228 ext. 3174

Providence	Christine Keshura	(401) 528-5357
Richmond	Jean Mitrovich	(804) 278-4500 ext. 3022
Sacramento	Woody Wilson	(916) 498-5220 ext. 392
San Antonio	Carolyn H. Shields	(210) 475-6800 ext. 2374
San Fran. Hub	Robert Skinner	(415) 436-6493
Seattle Hub	Gloria Garcia	(206) 220-5228 ext. 3174
	Dwyer Dale	(206) 220-5200 ext. 3243
	Kathy Claiborne (Anchorage)	(907)271-4314
Shreveport	Annie Maywether	(318) 676-3393 ext. 338
	Roy White	(318) 676-3393 ext. 340
St. Louis	Susan Grimes	(314) 539-6353
	Tanya Schepker	(314) 539-6354
	Jeff Kroll	(314) 593-6152
Washington DC	Richard Slaten	(202) 275-9200 ext. 3056
Western Team	Regina Aleksiewicz	(202) 708-0614 ext. 2600
	Eric Ramsey	(202) 708-2472 ext. 2549